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03/02/2004

Jay S. Walker

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7590

05/25/2010

WALKER DIGITAL MANAGEMENT, LLC  
2 HIGH RIDGE PARK  
STAMFORD, CT 06905

EXAMINER

D'AGOSTINO, PAUL ANTHONY

ART UNIT

PAPER NUMBER

3714

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/791,028	<b>Applicant(s)</b> WALKER ET AL.	
	<b>Examiner</b> Paul A. D'Agostino	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8, 15, 33 and 35-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 15, 33 and 35-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This responds to Applicant's Arguments/remarks filed 02/25/2010. Claims 1 and 33 have been amended. Claims 9-14, 16-32, and 34 stand cancelled. Claims 1-8, 15, 33, and 35-43 are now pending in this application.

#### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/25/2010 has been entered.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1 and 33 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Support cannot be located to support

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“verifying that the wager amount does not exceed the balance of funds”. Examiner finds in [0385] the verification reads as between the wager amount and the predetermined threshold not the balance of funds which is not what is claimed. Examiner appreciates Applicant's assistance to locate supporting matter.

### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 33 is rejected under 35 U.S.C. 101 because the claim covers statutory and non-statutory subject matter. Specifically, the claim to a computer readable medium that can be a computer RAM as well as a carrier wave covers a non-statutory embodiment under the broadest reasonable interpretation of the claim read in light of the specification and in view of one skilled in the art. Examiner recommends changing “computer readable” to – non-transitory computer readable --. Other corrections are possible, however non-transitory shall overcome the rejection.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section

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351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-2, 7-8, and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Pub. No. 2003/0190944 to Manfredi et al. (Manfredi).

Manfredi discloses a conventional gaming machine (Fig. 2) designed for safe gaming in which notifications are triggered according to criteria examples of which are provided in Fig. 2 (e.g., Maximum Bet), comprising:

a processor and computer readable memory storing a computer executable program to carry out the steps of the invention (see [0040, 0044] and programming (Claim 12) and memory ([0039, 0041 and Claim 18)) wherein games are played upon the insertion of funds to establish credit balance ([0025]) to initiate each play of the game machine ([0026]); and verifying that the wager amount does not exceed the balance of funds (Manfredi provides an example showing the relationship between buy-in, coins-in, winning, denomination, slot minimum wager, and play ([0025=0026]) from which can reasonably be inferred that wager amounts are verified to not exceed the balance of funds wherein 29 games \$1 games can be played and \$71 can be cashed out starting from an initial balance of funds of \$100. [0025-0026]). If the wagered amount could exceed the balance of funds, the math would not work out);

determining that the wagered amount selected is greater than a predetermined amount (Manfredi discloses that a maximum bet limit can be established, greater than the minimum bet wherein "the player can indicate that he wants to be stopped if he tries to bet, say, more than \$25 at one time" Fig. 2 and [0030]);

if the wagered amount selected is not greater than the predetermined amount, accepting the wager amount (“Such a self-limit can allow for unlimited play, if the player never tries to exceed the maximum bet” {0030});

if the wager amount selected is greater than the predetermined amount, displaying a confirmation message, such that the wager amount is not accepted until at least the confirmation message is displayed (when a self-limit is triggered the confirmation message of Fig. 4 “Notify Me” results in a message of Fig. 5 asking to cancel the self-limit e.g., yes/no, if no the wager proceeds. Examiner reads Applicants confirmation message, giving it its broadest reasonable interpretation in light of the specification as one of ordinary skill in the art wherein according to Applicant a confirmation message “Various different types of confirmation messages, beneficial to players, casinos, and other parties, may be presented that are relevant and helpful.” (Specification 0117) wherein Manfredi presents a confirmation message that serves the claimed purpose of Applicant's claimed invention by ensuring safe gaming by momentarily halting gambling to query the player before executing a bet which has exceeded a preset limit rationally set by the player earlier in time).

7. Claims 1-2, 7-8, and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Pub. No. 2002/0073021 to Ginsberg et al. (Ginsberg).

In Reference to Claims 1-2, 7-8, and 33

Ginsberg discloses a gaming apparatus (Fig. 1 and “data processing computer

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and a plurality of client workstations are provided that communicate interactively via a network" [0020]), in which a player can establish a real-time interactive transaction confirmation (Col. [0021]) wherein client and system may create "criteria" ([0062]) of which notifications "warn" the client from wagering for one or more games further [0062]), the system comprising:

- a processor operable to facilitate a wagering game (Fig. 1 "House Wagering Processor" 102); and

- a computer readable medium in communication with the processor and storing instructions configured to direct the processor to perform a method comprising ("Wagering processor 102 can be, for example, a data processing computer having appropriate processing speed and memory capacity" [0029] storing client qualification process 200 of Figs. 2-9):

- determining a balance of funds for a player (Fig. 3 step 302, [0067]);

- determining a wager amount {determining a cost to play} selected for placement on the wagering game by the player {receiving a request to initiate play of one or more wagering games} (Fig. 3 steps 304-312 and repeat loop back to 302);

- verifying that the wager amount does not exceed the balance of funds (Applicant argues that this limitation is not in Ginsberg but Examiner offers that a qualification test is applied to client's line-of-credit [0032]...Once credit is established the client is qualified to wager, the system manages the credit in real time – before any wagers are placed – only an amount the client is authorized to wager ...The system will not permit a client to wager more than that client's authorized amount" [0033]);

determining, in addition, to verifying, whether the wager amount selected is greater than a predetermined amount wherein the predetermined amount is distinct from a minimum wager amount that may be required to play the game (“the system preferably presents to a client only those events whose minimum wagering amounts are within the client’s authorized credit.” [0034] wherein, for example, if a player has a \$100 credit limit (pre-determined amount) he is able to wager (wager amount) on events and their minimum wager amount (minimum wager amount) on “which the client has sufficient authorized credit to wager” [0034] (comparison of the predetermined amount to the wager amount which is distinct from the minimum wager amount of each event);

if the wager amount selected is not greater than the predetermined amount, accepting the wager amount (“As the client places wagers, the system not only updates the client’s credit in real time, but also updates the list of events of which the client has sufficient authorized credit to wager” [0034, 0036]);

if the wager amount selected is greater than the predetermined amount, a confirmation message such that the wager amount selected is not accepted until at least the confirmation message is displayed (“The system preferably automatically helps clients control risk. ... If the criteria is met during wagering, the system can warn or prevent the client from wagering further.” [0062]; thus, a player will receive a warning {confirmation} that the wager exceeds the predetermined credit limit in which instance the player can take appropriate action so that the wager amount is accepted after the confirmation. In light of Applicant’s Specification, the function of the confirmation is to “double-check” information before committing to a purchase (Specification [0108]) such



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that “In some respects, this type of confirmation is similar to that of a consumer checking out at an on-line merchant site. In other words, the player is offered the opportunity to review the price or cost of what he intends to purchase (e.g., one or more game plays).” [0385]. The invention of Ginsberg allows a player to double-check his purchase before he actually commits [See also Claim 41 and Claim 46]]; and wherein Ginsberg discloses a confirmation screen with at least one selectable location (Ginsberg discloses that the player is warned ([0062]) and awaits a command to “transmit” or “clear” the wagers in Figs. 6-8 as part of Fig. 3 step 314 “Confirm Wager and Adjust Credit Balance”).

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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10. Claims 3-6, 15, and 35-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manfredi in view of U.S. Patent No. 6,077,163 to Walker (Walker) of record.

In Reference to Claims 3-6

Manfredi discloses a system substantially equivalent to Applicant's claimed invention. However, Manfredi is silent on a flat rate session; a pre-paid session; a wager amount corresponding to a plurality of plays; and a wager amount corresponding to a predetermined period of time.

Walker discloses a gaming machine (Fig. 1 and process Figs. 8A-13) wherein the game comprises a plurality of plays in a game (Fig. 14 for "Package Number 1" there are "100 Pulls" {multiple plays}), a flat rate session (Fig. 5 "Flat Rate Price" 514); a prepaid session (Fig. 8B step 834); a wager amount corresponding to a plurality of plays (Fig. 14 "duration of Flat Pay Session" 1414 "100 Pills" corresponding to \$30); and a wager amount corresponding to a predetermined period of time (Fig. 5 "72 Minutes" corresponding to \$50). Walker discloses this system to provide players more convenient and efficient game play (Col. 1 Lines 18-21).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to introduce a flat pay, a prepay, a multiple play, or a plays over time features as taught by Walker into the multiple event selection of Manfredi to allow players a more convenient and efficient play experience by not having to wager on an event by event basis.

Further, Manfredi as modified by Walker discloses the claimed invention except for these synonymous forms of financing a gaming session which are deemed to be a design choice. Applicant discloses that “A range of types of requested confirmations are possible, including confirming one or more of: (i) that the player has had the opportunity to review instructional information, (ii) that the player has consented to making the wager, (iii) that the player understands the value of certain parameters governing play of a game, (iv) that the player has entered into a binding legal contract (e.g., an agreement to play a prepaid game session for a flat rate cost), and / or (v) that the player is experienced.” [0115]). It would have been an obvious matter of design choice to wager in a conventional manner, since Applicant has not disclosed that these means solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with conventional wagering.

In Reference to Claim 15 and 35-40

Manfredi discloses a gaming device (Fig. 2) in which a player can wager and be interrupted by notification messages (Fig. 4 and [0035]) wherein for example the player sets as his criteria a maximum bet that he does not want to exceed and would like to be reminded of during game play before he makes that particular wager (Fig. 2) and receives the notification (Fig. 7 715) and then receives another notification asking if he would like to opt out of the self-limit criteria (Fig. 5), the system comprising a processor, computer readable medium and instructions (See rejection of Claim 1) allowing the

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player to initiate play the game (Fig. 10B 1020), determining whether to present the notification (confirmation) to the player (Fig. 10B 1030) and

if confirmation information is to be presented to the player: determining confirmation information to present to the player ([0030]); and

presenting the confirmation information to the player (Fig. 7);

receiving a signal indicating that the player confirms the confirmation information (Fig. 5);

decrementing a credit balance associated with the player (the system performs this operation as part of the operation of a conventional slot machine see [0025-0026]); and

initiating play of the game (Fig. 10B 1020) , in which determining whether to present confirmation information to the player comprises:

determining a cost to play the game ([0025-0026]; see also player establishing a max bet [0030]); and

determining whether the cost to play the game is greater than a predetermined cost, wherein the predetermined cost is distinct from a minimum wager amount required to play the game ([0030]; and in which the confirmation information includes an indication of the cost to play the game (Fig. 7 715 indicates the max bet); and

if the confirmation information is not to be presented to the player, because the predetermined cost to play the game is not greater than a predetermined cost, initiating play of the wagering game without presenting the confirmation information to the player ([0030, 0035]).

While Manfredi presents the constituent elements of the wager amount and max bet (Fig. 5, 7 and [0047]), Manfredi is silent on representing the notification (confirmation message) for a wager as a percentage of an available balance; as an indication of the wager amount compared to the balance of funds, a ratio or a percentage. Because Manfredi discloses the claimed invention except for the specific arrangement and/or content of indicia (printed matter) set forth in the claims. It would have been obvious to one of ordinary skill in the art at the time the invention was made to present these permutations of the constituent data presented to the player, since it would only depend on the intended use of the assembly and the desired information to be displayed. Further, it has been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of patentability. In re Gulack, 217 USPQ 401 (CAFC 1983). The fact that the content of the printed matter placed on the substrate may render the device more convenient by providing an individual with a specific type of representation does not alter the functional relationship. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability. Thus, there is no novel and unobvious functional relationship between the printed matter e.g. indications, ratios, or percentages and the substrate e.g. the confirmation messages which is required for patentability.

In Reference to Claims 41-43

See rejection of Claims 1, 15, 33 and 35-40.

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11. Claims 3-6, 15, and 35-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginsberg in view of U.S. Patent No. 6,077,163 to Walker (Walker) of record.

In Reference to Claims 3-6

Ginsberg discloses a system substantially equivalent to Applicant's claimed invention. However, Ginsberg is silent on a flat rate session; a pre-paid session; a wager amount corresponding to a plurality of plays; and a wager amount corresponding to a predetermined period of time.

Walker discloses a gaming machine (Fig. 1 and process Figs. 8A-13) wherein the game comprises a plurality of plays in a game (Fig. 14 for "Package Number 1" there are "100 Pulls" {multiple plays}), a flat rate session (Fig. 5 "Flat Rate Price" 514); a prepaid session (Fig. 8B step 834); a wager amount corresponding to a plurality of plays (Fig. 14 "duration of Flat Pay Session" 1414 "100 Pills" corresponding to \$30); and a wager amount corresponding to a predetermined period of time (Fig. 5 "72 Minutes" corresponding to \$50). Walker discloses this system to provide players more convenient and efficient game play (Col. 1 Lines 18-21).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to introduce a flat pay, a prepay, a multiple play, or a plays over time features as taught by Walker into the multiple event selection of Ginsberg to allow players a more convenient and efficient play experience by not having to wager on an event by event basis.

Further, Ginsberg as modified by Walker discloses the claimed invention except for these synonymous forms of financing a gaming session which are deemed to be a design choice. Applicant discloses that “A range of types of requested confirmations are possible, including confirming one or more of: (i) that the player has had the opportunity to review instructional information, (ii) that the player has consented to making the wager, (iii) that the player understands the value of certain parameters governing play of a game, (iv) that the player has entered into a binding legal contract (e.g., an agreement to play a prepaid game session for a flat rate cost), and / or (v) that the player is experienced.” [0115]). It would have been an obvious matter of design choice to wager in a conventional manner, since Applicant has not disclosed that these means solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with conventional wagering.

In Reference to Claims 15 and 35-40

Ginsberg discloses a gaming device (Fig. 1) in which a player can establish a real-time interactive wagering session and receive real-time wager confirmations ([0021]) in relation to “criteria” created by the player and implemented by the system ([0062]) in which notifications both confirm and warn a player that a criteria has been reached during wagering ([0062]), comprising:

a processor operable to facilitate a wagering game (Fig. 1 102) ; and

a computer readable medium in communication with the processor and storing instructions configured to direct the processor (“Wagering processor 102 can be, for

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example, a data processing computer having appropriate processing speed and memory capacity" [0029] storing client qualification process 200 of Figs. 2-9) to perform a method comprising:

- receiving a request to initiate play of the wagering game at the gaming device (Fig. 2 step 204);

- determining whether to present confirmation information to a player (Fig. 3 step 314);

- if confirmation information is to be presented to the player: determining confirmation information to present to the player (Fig. 3 "wager and adjust credit balance" as in Figs. 6-8 presenting the authorized wagers and awaiting a transmit command or a clear command; also according to instructions (e.g., criteria) the system will present a warning or can prevent the client from wagering further [0062]);

- presenting the confirmation information to the player (Figs. 3 and 6-8);

- receiving a signal indicating that the player confirms the confirmation information (Fig. 6-8 "transmit" or "clear" or in the event of a warning, the player commences play of a video game [0062]);

- decrementing a credit balance associated with the player (the system updates the client's credit in real time [0034] and does not allow a player to wager more than the authorized amount [0033]); and

- initiating play of the game ([0038-0040]), in which determining whether to present confirmation information to the player comprises:

- determining a cost to play the game (Fig. 3 steps 304-312, see also [0062]); and



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determining whether the cost to play the game is greater than a predetermined cost, wherein the predetermined cost is distinct from a minimum wager amount required to play the game as a percentage of an available balance (“the system preferably presents to a client only those events whose minimum wagering amounts are within the client’s authorized credit.” [0034] wherein, for example, if a player has a \$100 credit limit (pre-determined amount) he is able to wager (wager amount) on events and their minimum wager amount (minimum wager amount) on “which the client has sufficient authorized credit to wager” [0034]; Ginsberg discloses the amount wagered as a percentage of an available balance as part of providing examples of criteria that can be established in the system by the authority or the player ([0062]). Applicant argues that these criteria do not concern the current wager Applicant merely claims the cost to play which is not limiting on only a current bet and further, Ginsberg discloses that the criteria can be activated during wagering which includes the current wager. [0062]),

and in which the confirmation information includes an indication of the cost to play the game (Fig. 3 step 314 and Figs. 6-8); and

if the confirmation information is not to be presented to the player, because the predetermined cost to play the game is not greater than a predetermined cost, initiating play of the wagering game without presenting the confirmation information to the player (if a criteria is not breached, such as a wagering limit, then the warning confirmation message is not delivered [0062]).

While Ginsberg discloses in the confirmation message representing the wagered amount as a percentage of 50% of the balance of funds ([0062]) which functions to

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activate the confirmation message, Ginsberg is silent on representing the confirmation for a wager prior to transmission as a percentage of an available balance; as an indication of the wager amount compared to the balance of funds, a ratio or a percentage; or wherein the ratio is not less than one half. Because Ginsberg discloses the claimed invention except for the specific arrangement and/or content of indicia (printed matter) set forth in the claims. It would have been obvious to one of ordinary skill in the art at the time the invention was made to present these permutations of the constituent data presented to the player, since it would only depend on the intended use of the assembly and the desired information to be displayed. Further, it has been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of patentability. In re Gulack, 217 USPQ 401 (CAFC 1983). The fact that the content of the printed matter placed on the substrate may render the device more convenient by providing an individual with a specific type of representation does not alter the functional relationship. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability. Thus, there is no novel and unobvious functional relationship between the printed matter e.g. indications, ratios, or percentages and the substrate e.g. the confirmation messages which is required for patentability.

In Reference to Claims 41-43

See rejection of Claims 1, 15, 33 and 35-40.

### ***Response to Arguments***

12. Applicant's arguments (see Applicant's Arguments/Remarks pages 7-8) with respect to the claims have been considered but are not persuasive. Applicant argues that Ginsberg is a back-ward looking approach and maintains her arguments regarding Betmaker. Examiner respectfully disagrees as to the former and acknowledges the latter and has responded to Applicant's arguments as part of the rejection of the claims.

13. It is also noted that Applicant presents limitations as to the real nature of the invention yet the claims are still very broadly written to read on Ginsberg and so Ginsberg is maintained. Examiner also presents Manfredi, not to be cumulative, but to advance prosecution. While Applicant maintains her arguments regarding Betmaker, Betmaker is withdrawn as unnecessary. Thus, the rejection of the claims is maintained.

### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is provided in the Notice of References Cited.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. D'Agostino whose telephone number is (571)270-1992. The examiner can normally be reached on Monday - Friday, 7:30 a.m. - 5:00 p.m..

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on (571) 272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Paul A. D'Agostino/  
Examiner, Art Unit 3714